

Proposed Decision of SB 1022 Appeals Hearing Panel to BSCC – **Humboldt County**

Summary

The SB 1022 Appeals Hearing Panel recommends that the Board of State and Community Corrections deny the appeal from Humboldt County. On a 3-0 vote at a hearing on March 11, 2014 the panel determined that Humboldt County did not provide sufficient accounting documentation to receive the information about its funding set aside. Further information about the panel's decision appears below.

Background

On February 18, 2014 the County of Humboldt appealed the BSCC's decision on the SB 1022 Construction Financing program pursuant to BSCC Regulation 1788. The appeal was based on the county's contention that the technical review process was inadequate, and that the county should have received Preference Criteria point #1 (Funding). Humboldt County stated the following as the issue on appeal:

“The County of Humboldt's area of dissatisfaction is that the county did not receive any indication that the additional submittal of information, submitted as technical clarification, still did not meet the requirements that the Department of Finance was looking for in order to recommend approval of Criterion #1.

The county appeal further states that if the county had been notified again of the shortcomings the County Administrative Officer would have taken immediate steps to correct the problem.

Following receipt of the appeal, the Department of Finance provided information about its analysis of whether Humboldt County should be awarded Preference Criteria #1.

Analysis

All proposals were due to the BSCC by 5:00 p.m. on October 24, 2013. After the Department of Finance reviewed all proposals for technical compliance, BSCC staff notified counties when additional clarification was needed to evaluate the proposals.

In the initial submission Humboldt provided a copy of the Fund Summary report for the Criminal Justice Construction Fund showing a balance, as of October 17, 2013, of \$2.2 million (see Exhibit 2).

On November 5, 2013 20 counties were sent consistently-worded requests asking for further clarifying information. The email to Humboldt stated the following:

Humboldt County

- For each fund source to be used to provide the total county cash contribution, please provide the legal citation(s) authorizing establishment of the fund and the purpose(s) for which monies deposited into the fund can be expended. If the fund(s) cited are actually sub-funds or sub-accounts of the county General Fund (i.e. the source of the funds to be used originate from the county General Fund) please provide a statement and supporting accounting documentation to that effect.
- Please provide accounting documentation (i.e. balance sheet(s), account ledger(s), or similar) for each fund source authorized by the BOS to provide the county cash contribution

demonstrating that the authorized amount is available on-hand in the available balance of the authorized fund source(s) and is designated specifically for the proposed SB 1022 project. (Emphasis added.) If this project is attached to a specific account number within a fund(s) please make that clear. If authorized fund source(s) contain amounts for purposes other than this project we need to be able to clearly see how the amount authorized for this project is set-aside with the fund solely for this project. (Emphasis added.)

Although the Department of Finance (through the BSCC) sent a follow up request for documentation, Humboldt County did not show how funds were “..... available on-hand in the available balance of the authorized fund source (s) and.... designated specifically for the proposed SB 1022 project.” (Emphasis added)

Upon review of Humboldt’s submittal it was not evident that any specific set aside or subaccount or other ways to designate funds specifically for this project had been completed. The only information DOF received was an updated copy of the Fund Summary report for the Criminal Justice Construction Fund showing a balance, as of October 31, 2013, of \$2.2 million (see Exhibit 2). While the county’s cash contribution was \$398,000, there was no documentation of the balance not being committed to other projects or documentation that the necessary funds would be available when the project needed them. (If authorized fund source(s) contains amounts for purposes other than this project, the documentation should have clearly shown how the amount authorized for this project is set-aside with the fund solely for this project.)

Since this is a competitive funding process, it would not have been possible to give the county any more direction than other counties received.

Appeal Hearings Panel Consideration of Appeal

On March 11, 2014 the appeals hearing panel convened to hear the appeal of Humboldt County. The appeals hearing panel members were Judge William Pounders (Ret.) of Los Angeles, Sheriff Dean Growdon of Lassen County and Secretary Jeff Beard of the California Department of Corrections and Rehabilitation. Judge Pounders acted as the presiding officer for the proceedings.

Sheriff Michael Downey appeared at the appeals hearing on behalf of Humboldt County. Sheriff Downey was provided with an opportunity to explain to the appeals panel the basis of the county’s appeal on the Preference Criteria Rating process.

Statement of Decision

On a 3-0 vote, the appeals hearing panel recommends to the BSCC that the appeal from Humboldt County be denied. The panel believes that the RFP instructions, as well as the email request for clarification that went to Humboldt County on November 5, 2013, were sufficiently clear about the necessary accounting documentation that was required to receive credit for Preference Criterion #1.

Recommendation

The appeals hearing panel recommends that the Board of State and Community Corrections deny the appeal of Humboldt County for the reasons stated above.